



South Dakota Board of Examiners for Speech-Language Pathology

Mailing Address:
810 North Main Street, Suite 298
Spearfish, SD 57783

Phone: (605) 642-1600 E-Mail: proflic@rushmore.com
Home Page: speechpath.sd.gov

Draft-Teleconference **BOARD MEETING AGENDA**

TO: **All Board Members**

FROM: Carol Tellinghuisen

DATE: **April 9, 2021**

MEETING DATE: **April 23, 2021**

LOCATION: Teleconference with public access at:

 Board Office
 629 Main Street
 Spearfish, SD
 605-642-1600

Persons interested in joining the meeting may do so by appearing in person for the conference call at the location listed above or by calling 1-866-410-8397. Key in the Passcode: 605-773-4946#

MEETING TIME: **9:30AM CST / 8:30AM MST**

Agenda Item Number

1. Call to Order/Welcome and Introductions-Heinemeyer
2. Roll Call-Heinemeyer
3. Corrections or additions to the agenda
4. Approval of the agenda
5. Public Testimony/Public Comment Period at 9:35 a.m. CST
6. Approval of the minutes from January 22, 2021
7. FY Financial Update
8. Board Member per diem

9. Executive Session Pursuant to SDCL 1-25-2
 - a. Complaints/Investigations
10. Executive Orders Update
11. Legislative Updates/Audiology and Speech-Language Pathology Interstate Compact Update
12. Any other business coming in between date of mailing and date of meeting



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OFFICIAL BOARD MINUTES FOR January 22, 2021 TELECONFERENCE

MEMBERS PRESENT: Brittany Schmidt, President
Jane Heinemeyer, Vice-President
Shirley Hauge, Member
Jaculin Protexter, Member
Connie Tucker, Lay Member

MEMBERS ABSENT: None

OTHERS PRESENT: Carol Tellinghuisen, Executive Secretary
Jill Lesselyoung, Executive Assistant
Brooke Tellinghuisen Geddes, Executive Assistant
Jennifer Schultz, SDSLHA
Megan Borchert, DOH Board Attorney

CALL TO ORDER/WELCOME AND INTRODUCTIONS: President Schmidt called the meeting to order at 8:33AM MST.

ROLL CALL: Schmidt requested Lesselyoung to call the roll. Schmidt, yes; Heinemeyer, yes; Hauge, yes; Protexter, yes; Tucker, yes. A quorum was present.

CORRECTIONS OR ADDITIONS TO THE AGENDA: None

APPROVAL OF THE AGENDA: Hauge made a motion to approve the agenda. Heinemeyer seconded the motion. **MOTION PASSED** by roll call vote. Schmidt, yes; Heinemeyer, yes; Hauge, yes; Protexter, yes; Tucker, yes.

PUBLIC TESTIMONY/PUBLIC COMMENT PERIOD: Schmidt called for any public comments. There were no public comments for items not on the agenda.

ELECTION OF OFFICERS: Schmidt nominated/made a motion to elect Heinemeyer for President.

Hauge seconded the motion. Heinemeyer nominated/made a motion to elect Hauge as Vice-President. Tucker seconded the motion. **MOTIONS PASSED** by roll call vote. Schmidt, yes; Heinemeyer, yes; Hauge, yes; Protexter, yes; Tucker, yes.

NEW LEGAL COUNSEL FOR DOH-BORCHERT, PROSECUTOR-WILLIAMS: Schmidt introduced Borchert as the Board attorney for DOH and welcomed her to the Board.

REVIEW-ROLE OF BOARD MEMBER AND CONFLICT OF INTEREST POLICY: Borchert advised her role for the Board is to assist with meetings and provide legal advice as general counsel. Justin Williams will handle complaints and settlements. Borchert advised a Board member's role is to protect the health and safety of the consumers. It is a distinct purpose from the association's role of expansion of the practice and promotion of the profession. She advised members to keep the public protection in the back of their minds. She discussed the Code of Conduct and Conflict of Interest Policy that is a part of the Boards and Commissions Meeting Guidelines; a Board member must not use information for personal gain. She discussed the Anti-Harassment Policy and the Open Meeting Laws. All are encouraged to reach out with any questions.

APPROVAL OF THE MINUTES FROM APRIL 17, MAY 29, 2020: Hauge made a motion to approve the minutes from April 17, 2020 and May 29, 2020. Protexter seconded the motion. **MOTION PASSED** by roll call vote. Schmidt, yes; Heinemeyer, yes; Hauge, yes; Protexter, yes; Tucker, yes.

FY FINANCIAL UPDATE: Lesselyoung reported fiscal year-end figures as of June 30, 2020: revenue of \$83,179.41, expenditures of \$36,627.72 and cash balance on hand of \$183,723.89 and year to date figures as of December 31, 2020: revenue of \$32,992.94, expenditures of \$22,050.78 and cash balance of \$194,666.05. The Board discussed the financials and agreed the Board has a healthy cash balance in the event a complaint could go to hearing and entail legal expenses. Tellinghuisen advised a Board needs to maintain a healthy cash balance for complaints. Borchert agreed and advised on another Board it had cost between \$80,000-\$90,000 for a case hearing. The Board will assess the financials at a future date to see if it may be feasible to lower fees.

RENEWAL UPDATE/ONLINE RENEWAL SYSTEM: Lesselyoung advised there are currently 648 total active licensees and there were 20 licensees that did not renew. She advised the current database management system was purchased by another company and would no longer service the Board under the current contract. The Board office is moving to Albertson Consulting online system for database management for the DSS Boards. Under their system, the Board will be able to process online renewals, accept credit card payments, process license verifications, have a live time licensee roster as well as updating at some point to an electronic database system. Tellinghuisen advised it is a highly recommended system through DSS and it is working well for other boards. Following discussion, Schmidt moved to approve updating to the Albertson Consulting software system. Heinemeyer seconded the motion. **MOTION PASSED** by roll call vote. Schmidt, yes; Heinemeyer, yes; Hauge, yes; Protexter, yes; Tucker, yes.

EXECUTIVE SESSION PURSUANT TO SDCL 1-25-2: Heinemeyer made the motion to enter executive session at 9:25AM. Schmidt seconded the motion. **MOTION PASSED** by roll call vote. Schmidt, yes; Heinemeyer, yes; Hauge, yes; Protexter, yes; Tucker, yes. The Board exited executive session at 9:33AM.

COMPLAINTS/INVESTIGATIONS: There are no pending complaints.

EXECUTIVE SECRETARY CONTRACT RENEWAL: Tellinghuisen requested to renew the current contract with a state cost of living increase if granted. Hauge made a motion to renew the contract as requested by Tellinghuisen with a state cost of living increase if granted. Heinemeyer seconded the motion. **MOTION PASSED** by roll call vote. Schmidt, yes; Heinemeyer, yes; Hauge, yes; Protexter, yes; Tucker, yes.

EXECUTIVE ORDER UPDATE: Executive order 2020-34 extends the date until June 30, 2021 for those licensed in another state to continue providing services in SD.

BOARD COMBINATION BILL UPDATE: The bill as put forth by DOH is primarily to combine the two boards (with a few changes to the language) and not to make updates/changes to the statutes. From the South Dakota Speech-Language-Hearing Association's standpoint, Schultz expressed concerns as to the efficiency of passing one bill to combine the Boards with outdated language and then having to return to the legislature next year with another bill, asking them to reconsider updating the outdated language. There are changes to address related to scope of practice, fees, and renewal periods, etc. The Board questioned how to handle a complaint that may come in prior to the rules being re-written. Borchert advised there will be a way to do it. The Board voiced concerns on the complaint process since having less members for each profession would limit the professional members available to conduct an investigation. Borchert advised outside investigators are hired through a contract process to ensure immunity from liability. Tellinghuisen advised the process would work like our current process but the investigation now conducted by a Board member would be done by an outside source.

LEGISLATIVE UPDATES: Borchert advised there are several bills pending that affect Boards; HB 1014 is a Governor's bill to streamline the complaint process for all boards. Schmidt questioned whether this language may supersede current language. Borchert advised if there is not conflicted language then current language would be in effect but if new language conflicted then new language would apply. The purpose of the bill is for the public to know what is in effect for all Boards. HB 1077 is a bill to provide for licensure by endorsement for certain licensed professionals and occupations of which SLP is included. A bill to establish criteria for reviewing criminal records by licensing boards and commissions may possibly be introduced. Borchert will follow up and update if this bill should be introduced.

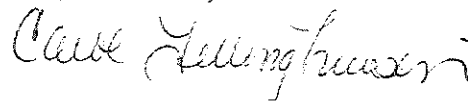
AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY INTERSTATE COMPACT UPDATE: Schultz advised 6 states have passed and 14 are actively pursuing. ND cannot participate as they do not require a clinical fellowship in their licensure requirements. Schultz advised those states that have passed will be involved in setting the fees and passing the rules for the compact. Eventually there will be background check requirements but that does not interfere with the ability to join the compact at this point.

ANY OTHER BUSINESS COMING IN BETWEEN DATE OF MAILING AND DATE OF MEETING: There was no other business.

NEXT MEETING DATE: The next meetings are set for April 23, July 23, and October 15 at 9:30CT/8:30MT.

Hauge made a motion to adjourn at 10:30AM. Heinemeyer seconded the motion. **MOTION PASSED** by roll call vote. Schmidt, yes; Heinemeyer, yes; Hauge, yes; Protexter, yes; Tucker, yes.

Respectfully submitted,



Carol Tellinghuisen
Executive Secretary

1-27-1.17. Draft minutes of public meeting to be available--Exceptions--Violation as misdemeanor. The unapproved, draft minutes of any public meeting held pursuant to § 1-25-1 that are required to be kept by law shall be available for inspection by any person within ten business days after the meeting. However, this section does not apply if an audio or video recording of the meeting is available to the public on the governing body's website within five business days after the meeting. A violation of this section is a Class 2 misdemeanor. However, the provisions of this section do not apply to draft minutes of contested case proceedings held in accordance with the provisions of chapter 1-26.

DRAFT

STATE OF SOUTH DAKOTA
REVENUE SUMMARY BY BUDGET UNIT
FOR PERIOD ENDING: 03/31/2021

AGENCY	09	HEALTH	BUDGET UNIT	09212	BOARD OF SPEECH-LANGUAGE PATHOLOGY -INFO			
CENTER	COMP	ACCOUNT	DESCRIPTION	CURRENT MONTH	YEAR-TO-DATE			
COMPANY NO 6503								
COMPANY NAME PROFESSIONAL & LICENSING BOARDS								
092120068622	6503	4293201	INITIAL APPLICATION FEE	400.00	5,650.00			
092120068622	6503	4293202	LICENSE FEE	600.00	9,200.00			
092120068622	6503	4293203	RENEWAL FEE	.00	12,020.00			
ACCT: 4293		BUSINESS & OCCUP LICENSING (NON-GOVERNMENTAL)		1,000.00	26,870.00	*		
ACCT: 42		LICENSES, PERMITS & FEES		1,000.00	26,870.00	**		
092120068622	6503	4393204	LATE FEE	.00	70.00			
ACCT: 4393		PENALTIES (NON-GOVERNMENTAL)		.00	70.00	*		
ACCT: 43		FINES, FORFEITS & PENALTIES		.00	70.00	**		
092120068622	6503	4599205	MISC INCOME	20.00	3,490.00			
ACCT: 4599		OTHER CHARGES (NON-GOVERNMENTAL)		20.00	3,490.00	*		
ACCT: 45		CHARGES FOR SALES & SERVICES		20.00	3,490.00	**		
092120068622	6503	4910000	OPERATING TRANSFERS IN	.00	270.00			
ACCT: 4910		OPERATING TRANSFERS IN		.00	270.00	*		
092120068622	6503	4920045	NONOPERATING REVENUES	.00	4,142.94			
ACCT: 4920		NONOPERATING REVENUE		.00	4,142.94	*		
ACCT: 49		OTHER REVENUE		.00	4,412.94	**		
CNTR: 092120068622				1,020.00	34,842.94	***		
CNTR: 092120068				1,020.00	34,842.94	****		
CNTR: 0921200				1,020.00	34,842.94	*****		
COMP: 6503				1,020.00	34,842.94	*****		
B UNIT: 09212				1,020.00	34,842.94	*****		

STATE OF SOUTH DAKOTA
MONTHLY OBJECT/SUB-OBJECT REPORT BY BUDGET UNIT
FOR PERIOD ENDING: 03/31/2021

AGENCY	BUDGET UNIT	09	HEALTH	09212	BOARD OF SPEECH-LANGUAGE PATHOLOGY -INFO	09212	BOARD OF SPEECH-LANGUAGE PATHOLOGY -INFO	CURRENT MONTH	YEAR-TO-DATE
CENTER	COMP	ACCOUNT	DESCRIPTION						
COMPANY NO	6503	PROFESSIONAL & LICENSING BOARDS							
092120068622	6503	510103000000000000	BOARD & COMM MBRS FEES					600.00	
ACCT: 5101		EMPLOYEE SALARIES						600.00	*
092120068622	6503	510201000000000000	OASI-EMPLOYER'S SHARE					45.90	
ACCT: 5102		EMPLOYEE BENEFITS						45.90	*
ACCT: 51		PERSONAL SERVICES						645.90	**
092120068622	6503	520402000000000000	DUES & MEMBERSHIP FEES					450.00	
092120068622	6503	520409000000000000	MANAGEMENT CONSULTANT					29,353.42	
092120068622	6503	520420000000000000	CENTRAL SERVICES					475.51	
092120068622	6503	520420300000000000	PURCHASING CENTRAL SERV					1.26	
092120068622	6503	520420700000000000	HUMAN RESOURCES SERVICES					103.83	
092120068622	6503	520458000000000000	TRUCK-DRAVAGE & FREIGHT					120.78	
ACCT: 5204		CONTRACTUAL SERVICES						30,504.80	*
092120068622	6503	520531000000000000	PRINTING-STATE					148.26	
092120068622	6503	520532000000000000	PRINTING-COMMERCIAL					216.69	
092120068622	6503	520535000000000000	POSTAGE					6.63	
ACCT: 5205		SUPPLIES & MATERIALS						371.58	*
ACCT: 52		OPERATING EXPENSES						30,876.38	**
COMP: 6503		PROFESSIONAL & LICENSING BOARDS						31,522.28	***
CENTER: 092120068622								31,522.28	****
B UNIT: 09212								31,522.28	*****

AGENCY: 09 HEALTH
BUDGET UNIT: 09212 BOARD OF SPEECH-LANGUAGE PATHOLOGY -INFO

COMPANY	CENTER	ACCOUNT	BALANCE	DR/CR	CENTER DESCRIPTION
6503	092100068622	1140000	187,044.55	DR	
COMPANY/SOURCE TOTAL 6503 686			187,044.55	DR *	
COMP/BUDG UNIT TOTAL 6503 09212			187,044.55	DR **	
BUDGET UNIT TOTAL 09212			187,044.55	DR ***	BD OF EXAMINERS FOR SPEECH-LANGUAGE PATH

CHAPTER 36-37
SPEECH-LANGUAGE PATHOLOGISTS

36-37-1. Definitions.

Terms used in this chapter mean:

- (1) "Board," the Board of Examiners for Speech-Language Pathology;
- (2) "Department," the Department of Health;
- (3) "Endoscopy," an imaging procedure included within the scope of practice for speech-language pathologists in which a speech-language pathologist uses a ~~flexible/nasal~~ flexible nasal endoscopy, ~~rigid/oral~~ rigid oral endoscopy, or stroboscopy for the purpose of evaluating and treating disorders of speech, voice, resonance, and swallowing function;
- (4) "Mentorship," the direct on-site supervision and monitoring of a speech-language pathologist with a provisional license by a licensed speech-language pathologist;
- (5) "Provisional license," the license issued to an applicant who is practicing speech-language pathology while completing the supervised postgraduate professional experience following completion of master's degree in speech-language pathology;
- (6) "Speech-language pathologist," any person who engages in the practice of speech-language pathology and who meets the qualifications set forth in this chapter;
- (7) "Speech-language pathology assistant," any person who assists in the practice of speech-language pathology and who meets the qualifications set forth in this chapter; and
- (8) "Telepractice," ~~"telespeech," "telespeech language pathology," or "telehealth," whether used separately or together.~~ Telepractice service means the application of telecommunication technology to deliver speech-language pathology at a distance for assessment, intervention, or consultation.

Commented [SS1]: LRC style and form changes from HB 1041

36-37-2. Practice of speech-language pathology defined.

For the purposes of this chapter, the practice of speech-language pathology is the application of principles, methods, and procedures related to the development, disorders, and effectiveness of human communication and related functions, including providing prevention, screening, consultation, assessment/evaluation, diagnosis, treatment/intervention/management, counseling, collaboration, and referral services for disorders of speech, language, feeding, and swallowing, and for cognitive aspects of communication. The practice of speech-language pathology also includes establishing:

- (1) ~~Establishing~~ augmentative and alternative communication techniques and strategies, including developing, selecting, and prescribing of such systems and devices, excluding the dispensing and fitting of hearing aids pursuant to chapter 36-24; ~~providing~~;
- (2) ~~Providing~~ services to individuals with hearing loss and their families; ~~screening~~;
- (3) ~~Screening~~ persons for hearing loss or middle ear pathology using conventional pure-tone air conduction methods, otoacoustic emissions screening, or screening tympanometry; ~~using~~;
- (4) ~~Using~~ instrumentation to observe, collect data, and measure parameters of communication and swallowing; ~~selecting~~;
- (5) ~~Selecting~~, fitting, and establishing effective use of prosthetic or adaptive devices for communication, swallowing, or other upper aerodigestive functions; ~~and providing~~
- (6) ~~Providing~~ services to modify or enhance communication performance.

Commented [SS2]: LRC style and form changes from HB 1041

36-37-3. License to practice speech-language pathology required—Violation as misdemeanor.

No person may practice speech-language pathology or represent himself or herself as a speech-language pathologist or speech-language pathology assistant in this state, unless such person is licensed in accordance with this chapter. A person represents oneself to be a speech-language pathologist or speech-language pathology assistant if the person holds himself or herself out to the public by any means, or by any service or function performed, directly or indirectly, or by using the terms, speech pathologist, speech therapist, speech teacher, speech correctionist, speech clinician, language therapist, language pathologist,

language specialist, voice therapist, voice pathologist, logopedist, communicologist, aphasiologist, phoniatrist, speech-language pathologist assistant, or any variation, synonym, coinage, or other word that expresses, employs, or implies these terms, names, or functions. A violation of this section is a Class 2 misdemeanor.

36-37-4. Persons holding speech-language pathologist certificate from Department of Education as of July 1, 2012 **Speech-language pathologist – Limited licensure – Persons certified by Department of Education as of July 1, 2012.**

Any person who holds ~~possessed~~ any speech-language pathologist certificate from the South Dakota Department of Education as of July 1, 2012, and does not otherwise meet the qualifications set forth in this chapter may apply for and shall be granted a limited license to practice as a speech-language pathologist as long as:

- (1) The ~~application is~~ **initial application** was made no later than July 1, 2014; and
- (2) The applicant complies with the provisions of subdivisions 36-37-14(1), (2), and (7).

The limits of the license shall be determined by the board in rules promulgated pursuant to chapter 1-26.

36-37-5. Activities not restricted by chapter.

Nothing in this chapter may be construed as preventing or restricting:

- (1) Any person licensed, certified, registered, or otherwise credentialed by this state in professions other than speech-language pathology from practicing that profession;
- (2) Any person certified as a teacher of the deaf;
- (3) The activities and services of any person pursuing a course of study leading to a degree in speech-language pathology or as a speech-language pathology assistant at a college or university if:
 - (a) The activities and services constitute a part of a planned course of study at that institution;
 - (b) The person is designated by a title such as intern, trainee, student, or by other such title clearly indicating the status appropriate to their level of education; and
 - (c) The person works under the supervision of a person licensed by this state to practice speech-language pathology;
- (4) The activities of any person who is not licensed in this state from engaging in the practice of speech-language pathology for the purpose of providing training or continuous education as long as they hold an active license in another state, agree to abide by the standards of professional conduct and do not engage in such activities exceeding five days in any calendar year.

36-37-6. Nonmedical endoscopy.

Any person who is licensed as a speech-language pathologist in South Dakota may perform assessment, treatment, and procedures related to speech, voice, resonance, and swallowing function using nonmedical endoscopy as long as the person has received training and is competent to perform these procedures. A licensed speech-language pathologist shall have protocols in place for emergency medical backup when performing procedures using an endoscope.

36-37-7. Telepractice.

~~Any person who is licensed as a speech-language pathologist in South Dakota may provide speech-language pathology services via telepractice. Services delivered via telespeech shall be equivalent to the quality of services delivered face-to-face.~~

36-37-8. Board of Examiners for Speech-Language Pathology.

Commented [SS3]: From HB 1041

I know there are a handful of paraprofessionals covered under 36-37-19 but are there any practicing SLPs that would be covered by this section? If not, it can be repealed.

~~There is hereby created a~~ The Governor shall appoint a five-member Board of Examiners for Speech-Language Pathology under the supervision of the Department of Health. The board shall consist of five members appointed by the Governor who are residents of this state. Four of the members shall be speech-language pathologists who are currently practicing speech-language pathology, who have five years experience practicing speech-language pathology, and who hold a license to practice speech-language pathology in this state, except for the first speech-language pathologists appointed who need only meet the eligibility requirements for licensure. At least one of the members who is a speech-language pathologist shall be employed in a school setting and one of the members who is a speech-language pathologist shall be employed in a health care setting. One of the members shall be a representative of the public who is not associated with or financially interested in the practice or business of speech-language pathology. No member of the board may concurrently serve in an elected, appointed, or employed position in any state professional association or governmental regulatory agency which presents a conflict of interest.

36-37-9. Terms of board members – Vacancy – Removal.

Each appointment to the board shall be for a period of three years ~~except for the initial appointments which shall be for staggered terms.~~ Each member shall serve until the expiration of the term for which the member has been appointed or until the member's successor is appointed and qualified to serve on the board. If a vacancy occurs other than by expiration of a term, the Governor shall appoint a qualified person to fill the vacancy for the unexpired term. No member may serve more than three consecutive three-year terms.

The Governor may remove any member of the board for unprofessional conduct, incompetence, or neglect of duty.

36-37-10. Meetings of board – Quorum.

The board shall meet during the first quarter of each calendar year to select a chair and vice chair and to conduct other business. At least one additional meeting shall be held before the end of each calendar year. Additional meetings may be convened at the call of the chair or at the request of two or more board members.

Four members of the board constitutes a quorum to do business if the majority of the members present are speech-language pathologists.

36-37-11. Compensation of members.

Members of the board shall receive a per diem established pursuant to § 4-7-10.4 and expenses at the same rate as other state employees while actually engaged in official duties.

36-37-12. Powers and duties of board.

The board has the following powers and duties:

- (1) Administer, coordinate, and enforce the provisions of this chapter, evaluate the qualifications of applicants, supervise the examination of applicants, and issue and renew licenses;
- (2) Issue subpoenas, examine witnesses, administer oaths, conduct hearings, and, at its discretion, investigate allegations of violations of this chapter and impose penalties for any violations;
- (3) Promulgate rules pursuant to chapter 1-26 to delineate qualifications for licensure, specify requirements for the renewal of licensure, regulate the delivery of services via telepractice, establish standards of professional conduct, specify procedures for suspension and revocation of licensure, establish a schedule of disciplinary actions for violations of professional conduct, permit inactive licensures, establish procedures for collection and management of fees and payments, establish application, biennial licensure, biennial renewal, and late fees not to exceed one hundred fifty dollars each delineate activities that may or may not be delegated to an assistant, and specify requirements for supervision of speech-language pathology assistants based on national guidelines;

- (4) Have available the names and addresses of persons currently licensed pursuant to the provisions of this chapter;
- (5) Employ personnel in accordance with its needs and budget;
- (6) Request legal advice and assistance, as needed, from the Office of the Attorney General;
- (7) Enter into such contracts as necessary to carry out its responsibilities under this chapter;
- (8) Hire legal counsel;
- (9) Establish a budget;
- (10) Submit reports of its operations and finances as required by § 4-7-7, 2;
- (11) Adopt an official seal by which it shall authenticate its proceedings, copies, records, acts of the board, and licenses;
- (12) Develop procedures for:
 - (a) Monitoring a license holder's compliance with the requirements of this chapter;
 - (b) Monitoring a license holder who is ordered by the board to perform certain acts;
 - (c) Identifying a license holder who presents a risk to the public; and
 - (d) Initiating appropriate actions regarding a license holder who presents a risk to the public;
- (13) Develop a system for monitoring complaints filed with the board, procedures for providing assistance to a person who wishes to file a complaint, and a schedule for disposing of complaints in a timely manner;
- (14) Communicate disciplinary actions to relevant state and federal authorities including the National Practitioners Database and the American Speech-Language-Hearing Association Board of Ethics and to other state speech-language pathology licensing authorities; and
- (15) Perform any other duties directly related to the administration of the provisions of this chapter.

No member of the board is liable for civil action for any act performed in good faith in the performance of the member's duties as prescribed by law.

36-37-13. Moneys collected and payments by board.

All moneys coming into the custody of the board, including any fees and any other payments, shall be paid by the board to the state treasurer on or before the tenth day of each month and shall consist of all moneys received by the board during the preceding calendar month. The state treasurer shall credit the moneys to the Board of Examiners for Speech-Language Pathology account, which account is hereby created. The moneys in the account are hereby continuously appropriated to the board for the purpose of paying the expense of administering and enforcing the provisions of this chapter. The total expenses incurred by the board may not exceed the total moneys collected.

36-37-14. Requirements for licensure.

To be eligible for licensure by the board as a speech-language pathologist, the applicant shall:

- (1) Submit an application, upon a form prescribed by the board;
- (2) Pay the application fee;
- (3) Possess a master's or doctoral degree from an educational institution accredited by the accrediting agency of the American Speech-Language-Hearing Association and from an educational institution approved by the United States Department of Education;
- (4) Complete supervised clinical practicum experiences from an educational institution or its cooperating programs;
- (5) Complete a supervised postgraduate professional experience;
- (6) Pass a written national examination in speech-language pathology; and
- (7) Have committed no act for which disciplinary action may be justified.

36-37-15. Waiver of certain requirements for applicants holding out-of-state license or association certificate Issuance of license to out-of-state licensee.

Commented [SS4]: From HB 041

The board shall waive the qualifications in subdivisions 36-37-14(3), (4), (5), and (6) for any issue a speech-language pathology or speech-language pathology assistant license to an applicant who has filed an application with the board, has paid the application fee, has not committed any act for which disciplinary action may be justified and:

- (1) Presents proof of current licensure in a state that has standards that are equivalent to or greater than those of this state; or
- (2) (1) Applies to the board on a form prescribed by the board;
- (2) Pays the application fee; and
- (3) Holds a current unrestricted license from a state with equivalent licensure standards or holds a current Certificate of Clinical Competence in Speech Language Pathology from the American Speech-Language-Hearing Association.

36-37-16. Waiver of certain requirements for foreign Foreign-educated applicants meeting examination requirements for a license.

The board may waive the qualifications in subdivisions 36-37-14(3), (4), and (5) for any applicant who:

- (1) Received a professional education in another country if the board is satisfied that equivalent education and practicum requirements have been met; and
- (2) Met the examination requirements in subdivision 36-37-14(6).

36-37-17. Provisional licenses.

The board shall issue a provisional license in speech-language pathology to an applicant who:

- (1) Except for the postgraduate professional experience, meets the academic, practicum, and examination requirements of this chapter;
- (2) Submits an application, upon a form prescribed by the board, including a plan for the content of the postgraduate professional experience;
- (3) Pays the application fee for a provisional license; and
- (4) Has not committed any act for which disciplinary action may be justified.

A person holding a provisional license may practice speech-language pathology only while working under the mentorship of a licensed speech-language pathologist who meets the qualifications of § 36-37-14, 36-37-15, or 36-37-16. The term for a provisional license and the conditions for its renewal shall be determined by the board in rules promulgated pursuant to chapter 1-26.

36-37-18. Speech-language pathology assistant licenses – Licensure.

The board shall issue a speech-language pathology assistant license to an applicant who:

- (1) Submits an application, upon a form prescribed by the board;
- (2) Pays the application fee;
- (3) Holds an associate's degree in speech-language pathology assisting or a bachelor's degree with major emphasis in speech-language pathology or communication disorders from an accredited academic institution;
- (4) Submits an official transcript verifying necessary academic preparation and clinical experiences;
- (5) Completes a supervised clinical practicum of a minimum of one hundred clock hours as a speech-language pathology assistant while either on the job or during academic preparation as certified by completion of the Verification of Completed Supervised Practicum form; and
- (6) Has committed no act for which disciplinary action is justified.

While completing the clinical practicum required in subdivision (5), neither the speech-language pathology assistant applicant nor supervising speech-language pathologists may represent the applicant as a licensed assistant. A supervising speech-language pathologist shall be present at all times when an applicant is completing the clinical practicum on the job.

Commented [SS5]: From HB 1041

36-37-19. Paraprofessionals employed under supervision of a speech-language pathologist holding speech-language pathologist certificate from Department of Education as of July 1, 2012.

Any person who is employed as a paraprofessional providing speech-language pathology services under the direct supervision of a speech-language pathologist who holds possessed a speech-language pathologist certificate from the South Dakota Department of Education as of July 1, 2012, and does not otherwise meet the qualifications set forth in this chapter may apply for and shall be granted a speech-language pathology assistant license and may continue to practice as a speech-language pathology assistant as long as:

- (1) The initial application was made no later than July 1, 2014;
- (2) The applicant continued to render speech-language pathology services in the public school or school district where the applicant was employed at the time of application; and
- (3) The renewal fee is paid.

Commented [SS6]: From HB 1041

36-37-20. Supervision of assistant by licensed speech-language pathologist.

An assistant shall be supervised by a licensed speech-language pathologist who has at least ~~three~~ two years of experience as a speech-language pathologist or a limited licensed speech-pathologist with at least two years of experience. The time licensed as a provisional speech-language pathologist counts towards the two years of experience. The supervising speech-language pathologist:

- (1) Is responsible for the extent, kind, and quality of service provided by the assistant, consistent with the board's designated standards and requirements;
- (2) Shall ensure that persons receiving services from an assistant receive prior written notification that services are to be provided, in whole or in part, by a speech-language pathology assistant;
- (3) May not supervise more than three speech-language pathology assistants at one time.

An assistant may have more than one supervisor if the board is notified.

Commented [SS7]: From HB 1041

36-37-21. Disciplinary actions.

The board may impose separately, or in combination, any of the following disciplinary actions on a licensee after formal or informal disciplinary action:

- (1) Refuse to issue or renew a license;
- (2) Issue a letter of reprimand or concern;
- (3) Require restitution of fees;
- (4) Impose probationary conditions;
- (5) Require the licensee to reimburse the board for costs of the investigation and proceeding;
- (6) Suspend or revoke a license;
- (7) Impose practice or supervision requirements, or both; or
- (8) Require licensees to attend continuing education programs specified by the board as to content and hours.

36-37-22. Reinstatement of suspended or revoked license.

If the board imposes suspension or revocation of license, application may be made to the board for reinstatement. If a licensee is placed on probation, the board may require the license holder to:

- (1) Report regularly to the board on matters that are the basis of probation;
- (2) Limit practice to the areas prescribed by the board; or
- (3) Continue or review continuing education until the license holder attains and degree of skill satisfactory to the board in those areas that are the basis of the probation.

36-37-23. Actions constituting misconduct.

The board may take disciplinary actions for the following conduct:

- (1) Fraudulently or deceptively obtaining or attempting to obtain a license or a provisional license;
- (2) Fraudulently or deceptively using a license or provisional license;

- (3) Altering a license or provisional license;
- (4) Aiding or abetting unlicensed practice;
- (5) Selling, bartering, or offering to sell or barter a license or provisional license;
- (6) Committing fraud or deceit in the practice of speech-language pathology, including:
 - (a) Willfully making or filing a false report or record in the practice of speech-language pathology;
 - (b) Submitting a false statement to collect a fee;
 - (c) Obtaining a fee through fraud or misrepresentation;
- (7) Using or promoting or causing the use of any misleading, deceiving, improbable, or untruthful advertising matter, promotional literature, testimonial, guarantee, warranty, label, brand insignia, or any other representation;
- (8) Falsely representing the use or availability of services or advise of a physician;
- (9) Misrepresenting the applicant, licensee, or holder by using the term, doctor, or any similar word, abbreviation, or symbol if the use is not accurate or if the degree was not obtained from a regionally accredited institution;
- (10) Committing any act of dishonesty, immorality, or unprofessional conduct while engaging in the practice of speech-language pathology;
- (11) Engaging in illegal, incompetent, or negligent practice;
- (12) Providing professional services while:
 - (a) Mentally incompetent;
 - (b) Under the influence of alcohol;
 - (c) Using any narcotic or controlled dangerous substance or other drug that is in excess of therapeutic amounts or without valid medical indication;
- (13) Providing services or promoting the sale of devices, appliances, or products to a person who cannot reasonably be expected to benefit from such services, devices, appliances, or products;
- (14) Violating any provision of this chapter, or any lawful order given, or rule adopted, by the board;
- (15) Being convicted or pleading guilty or nolo contendere to a felony or to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;
- (16) Being disciplined by a licensing or disciplinary authority of any state or country, or any nationally recognized professional organization, or convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under this section;
- (17) Exploiting a patient for financial gain or sexual favors;
- (18) Failing to report suspected cases of child abuse or vulnerable adult abuse;
- (19) Diagnosing or treating a person for speech disorders by mail or telephone unless the person has been previously examined by the licensee and the diagnosis or treatment is related to such examination; or
- (20) Violating federal, state, or local laws relating to the profession.

The board shall adopt, by rules promulgated pursuant to chapter 1-26, a schedule of sanctions to be imposed as the result of formal or informal disciplinary activities conducted by the board.

36-37-24. Disciplinary hearing – Decision – Appeal.

The board may take disciplinary action or suspend, revoke, or reissue a license or certification only after a hearing conducted by a hearing examiner appointed by the board or by a majority of the members of the board.

Any disciplinary proceeding or proceeding relative to the revocation or suspension of a license or certification shall otherwise conform to the procedure set forth in chapter 1-26.

Any decision of the board to discipline, suspend, revoke, or reissue a license or certification requires a majority vote of the board membership.

Commented [SS8]: Look at SB 96 to see if changes are needed

Any party feeling aggrieved by any acts, rulings, or decisions of the board acting pursuant to § 36-37-21, 36-37-22, or 36-37-23, has the right to appeal under the provisions of chapter 1-26.

36-37-25. Injunction for violation.

Any person violating the provisions of this chapter may be enjoined from further violations at the suit of the state's attorney of the county where the violations occurred or suit may be brought by any citizen of this state. An action for injunction is an alternate to criminal proceedings, and the commencement of one proceeding by the board constitutes an election.

Compact

Background checks

Section ##. That a NEW SECTION be added:

36-## ##. Audiology and Speech-Language Pathology Interstate Compact adopted.

The Audiology and Speech-Language Pathology Interstate Compact is enacted into law and entered into with all other jurisdictions that legally join the compact, which is substantially as follows:

SECTION 1: PURPOSE

The purpose of this Compact is to facilitate interstate practice of audiology and speech-language pathology with the goal of improving public access to audiology and speech-language pathology services. The practice of audiology and speech-language pathology occurs in the state where the patient/client/student is located at the time of the patient/client/student encounter. The Compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure.

This Compact is designed to achieve the following objectives:

1. Increase public access to audiology and speech-language pathology services by providing for the mutual recognition of other member state licenses;
2. Enhance the states' ability to protect the public's health and safety;
3. Encourage the cooperation of member states in regulating multistate audiology and speech-language pathology practice;
4. Support spouses of relocating active duty military personnel;
5. Enhance the exchange of licensure, investigative and disciplinary information between member states;
6. Allow a remote state to hold a provider of services with a compact privilege in that state accountable to that state's practice standards; and
7. Allow for the use of telehealth technology to facilitate increased access to audiology and speech-language pathology services.

SECTION 2: DEFINITIONS

As used in this Compact, and except as otherwise provided, the following definitions shall apply:

- A. "Active duty military" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Section 1209 and 1211.
- B. "Adverse action" means any administrative, civil, equitable or criminal action permitted by a state's laws which is imposed by a licensing board or other authority against an audiologist or speech-language pathologist, including actions against an individual's license or privilege to practice such as revocation, suspension, probation, monitoring of the licensee, or restriction on the licensee's practice.
- C. "Alternative program" means a non-disciplinary monitoring process approved by an audiology or speech-language pathology licensing board to address impaired practitioners.
- D. "Audiologist" means an individual who is licensed by a state to practice audiology.
- E. "Audiology" means the care and services provided by a licensed audiologist as set forth in the member state's statutes and rules.
- F. "Audiology and Speech-Language Pathology Compact Commission" or "Commission" means the national administrative body whose membership consists of all states that have enacted the Compact.
- G. "Audiology and speech-language pathology licensing board," "audiology licensing board," "speech-language pathology licensing board," or "licensing board" means the agency of a state that is responsible for the licensing and regulation of audiologists and/or speech-language pathologists.
- H. "Compact privilege" means the authorization granted by a remote state to allow a licensee from another member state to practice as an audiologist or speech-language pathologist in the remote state under its laws and rules. The practice of audiology or speech-language pathology

- occurs in the member state where the patient/client/student is located at the time of the patient/client/student encounter.
- I. "Current significant investigative information" means investigative information that a licensing board, after an inquiry or investigation that includes notification and an opportunity for the audiologist or speech-language pathologist to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction.
- J. "Data system" means a repository of information about licensees, including, but not limited to, continuing education, examination, licensure, investigative, compact privilege and adverse action.
- K. "Encumbered license" means a license in which an adverse action restricts the practice of audiology or speech-language pathology by the licensee and said adverse action has been reported to the National Practitioners Data Bank (NPDB).
- L. "Executive Committee" means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the Commission.
- M. "Home state" means the member state that is the licensee's primary state of residence.
- N. "Impaired practitioner" means individuals whose professional practice is adversely affected by substance abuse, addiction, or other health-related conditions.
- O. "Licensee" means an individual who currently holds an authorization from the state licensing board to practice as an audiologist or speech-language pathologist.
- P. "Member state" means a state that has enacted the Compact.
- Q. "Privilege to practice" means a legal authorization permitting the practice of audiology or speech-language pathology in a remote state.
- R. "Remote state" means a member state other than the home state where a licensee is exercising or seeking to exercise the compact privilege.
- S. "Rule" means a regulation, principle or directive promulgated by the Commission that has the force of law.
- T. "Single-state license" means an audiology or speech-language pathology license issued by a member state that authorizes practice only within the issuing state and does not include a privilege to practice in any other member state.
- U. "Speech-language pathologist" means an individual who is licensed by a state to practice speech-language pathology.
- V. "Speech-language pathology means the care and services provided by a licensed speech-language pathologist as set forth in the member state's statutes and rules.
- W. "State" means any state, commonwealth, district or territory of the United States of America that regulates the practice of audiology and speech-language pathology.
- X. "State practice laws" means a member state's laws, rules and regulations that govern the practice of audiology or speech-language pathology, define the scope of audiology or speech-language pathology practice, and create the methods and grounds for imposing discipline.
- Y. "Telehealth" means the application of telecommunication technology to deliver audiology or speech-language pathology services at a distance for assessment, intervention and/or consultation.

SECTION 3. STATE PARTICIPATION IN THE COMPACT

- A. A license issued to an audiologist or speech-language pathologist by a home state to a resident in that state shall be recognized by each member state as authorizing an audiologist or speech-language pathologist to practice audiology or speech-language pathology, under a privilege to practice, in each member state.
- B. A state must implement or utilize procedures for considering the criminal history records of applicants for initial privilege to practice. These procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining

an applicant's criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that state's criminal records

1. A member state must fully implement a criminal background check requirement within a time frame established by rule, by receiving the results of the Federal Bureau of Investigation record search on criminal background checks and use the results in making licensure decisions.
 2. Communication between a member state, the Commission and among member states regarding the verification of eligibility for licensure through the Compact shall not include any information received from the Federal Bureau of Investigation relating to a federal criminal records check performed by a member state under Public Law 92-544.
- C. Upon application for a privilege to practice, the licensing board in the issuing remote state shall ascertain, through the data system, whether the applicant has ever held, or is the holder of, a license issued by any other state, whether there are any encumbrances on any license or privilege to practice held by the applicant, whether any adverse action has been taken against any license or privilege to practice held by the applicant.
- D. Each member state shall require an applicant to obtain or retain a license in the home state and meet the home state's qualifications for licensure or renewal of licensure, as well as, all other applicable state laws.
- E. For an audiologist:
1. Must meet one of the following educational requirements:
 - a. On or before, Dec. 31, 2007, has graduated with a master's degree or doctorate in audiology, or equivalent degree regardless of degree name, from a program that is accredited by an accrediting agency recognized by the Council for Higher Education Accreditation, or its successor, or by the United States Department of Education and operated by a college or university accredited by a regional or national accrediting organization recognized by the board; or
 - b. On or after, Jan. 1, 2008, has graduated with a Doctoral degree in audiology, or equivalent degree, regardless of degree name, from a program that is accredited by an accrediting agency recognized by the Council for Higher Education Accreditation, or its successor, or by the United States Department of Education and operated by a college or university accredited by a regional or national accrediting organization recognized by the board; or
 - c. Has graduated from an audiology program that is housed in an institution of higher education outside of the United States (a) for which the program and institution have been approved by the authorized accrediting body in the applicable country and (b) the degree program has been verified by an independent credentials review agency to be comparable to a state licensing board-approved program.
 2. Has completed a supervised clinical practicum experience from an accredited educational institution or its cooperating programs as required by the board;
 3. Has successfully passed a national examination approved by the Commission;
 4. Holds an active, unencumbered license;
 5. Has not been convicted or found guilty, and has not entered into an agreed disposition, of a felony related to the practice of audiology, under applicable state or federal criminal law;
 6. Has a valid United States Social Security or National Practitioner Identification number.
- F. For a speech-language pathologist:
1. Must meet one of the following educational requirements:

- a. Has graduated with a master's degree from a speech-language pathology program that is accredited by an organization recognized by the United States Department of Education and operated by a college or university accredited by a regional or national accrediting organization recognized by the board; or
- b. Has graduated from a speech-language pathology program that is housed in an institution of higher education outside of the United States (a) for which the program and institution have been approved by the authorized accrediting body in the applicable country and (b) the degree program has been verified by an independent credentials review agency to be comparable to a state licensing board-approved program.
- 2. Has completed a supervised clinical practicum experience from an educational institution or its cooperating programs as required by the Commission;
- 3. Has completed a supervised postgraduate professional experience as required by the Commission
- 4. Has successfully passed a national examination approved by the Commission;
- 5. Holds an active, unencumbered license;
- 6. Has not been convicted or found guilty, and has not entered into an agreed disposition, of a felony related to the practice of speech-language pathology, under applicable state or federal criminal law;
- 7. Has a valid United States Social Security or National Practitioner Identification number.
- G. The privilege to practice is derived from the home state license.
- H. An audiologist or speech-language pathologist practicing in a member state must comply with the state practice laws of the state in which the client is located at the time service is provided. The practice of audiology and speech-language pathology shall include all audiology and speech-language pathology practice as defined by the state practice laws of the member state in which the client is located. The practice of audiology and speech-language pathology in a member state under a privilege to practice shall subject an audiologist or speech-language pathologist to the jurisdiction of the licensing board, the courts and the laws of the member state in which the client is located at the time service is provided.
- I. Individuals not residing in a member state shall continue to be able to apply for a member state's single-state license as provided under the laws of each member state. However, the single-state license granted to these individuals shall not be recognized as granting the privilege to practice audiology or speech-language pathology in any other member state. Nothing in this Compact shall affect the requirements established by a member state for the issuance of a single-state license.
- J. Member states may charge a fee for granting a compact privilege.
- K. Member states must comply with the bylaws and rules and regulations of the Commission.

SECTION 4. COMPACT PRIVILEGE

- A. To exercise the compact privilege under the terms and provisions of the Compact, the audiologist or speech-language pathologist shall:
 - 1. Hold an active license in the home state;
 - 2. Have no encumbrance on any state license;
 - 3. Be eligible for a compact privilege in any member state in accordance with Section 3;
 - 4. Have not had any adverse action against any license or compact privilege within the previous 2 years from date of application;
 - 5. Notify the Commission that the licensee is seeking the compact privilege within a remote state(s);

6. Pay any applicable fees, including any state fee, for the compact privilege; 7. Report to the Commission adverse action taken by any non-member state within 30 days from the date the adverse action is taken.
- B. For the purposes of the compact privilege, an audiologist or speech-language pathologist shall only hold one home state license at a time.
- C. Except as provided in Section 6, if an audiologist or speech-language pathologist changes primary state of residence by moving between two-member states, the audiologist or speech-language pathologist must apply for licensure in the new home state, and the license issued by the prior home state shall be deactivated in accordance with applicable rules adopted by the Commission.
- D. The audiologist or speech-language pathologist may apply for licensure in advance of a change in primary state of residence.
- E. A license shall not be issued by the new home state until the audiologist or speech-language pathologist provides satisfactory evidence of a change in primary state of residence to the new home state and satisfies all applicable requirements to obtain a license from the new home state.
- F. If an audiologist or speech-language pathologist changes primary state of residence by moving from a member state to a non-member state, the license issued by the prior home state shall convert to a single-state license, valid only in the former home state.
- G. The compact privilege is valid until the expiration date of the home state license. The licensee must comply with the requirements of Section 4A to maintain the compact privilege in the remote state.
- H. A licensee providing audiology or speech-language pathology services in a remote state under the compact privilege shall function within the laws and regulations of the remote state.
- I. A licensee providing audiology or speech-language pathology services in a remote state is subject to that state's regulatory authority. A remote state may, in accordance with due process and that state's laws, remove a licensee's compact privilege in the remote state for a specific period of time, impose fines, and/or take any other necessary actions to protect the health and safety of its citizens.
- J. If a home state license is encumbered, the licensee shall lose the compact privilege in any remote state until the following occur:
1. The home state license is no longer encumbered; and
 2. Two years have elapsed from the date of the adverse action.
- K. Once an encumbered license in the home state is restored to good standing, the licensee must meet the requirements of Section 4A to obtain a compact privilege in any remote state.
- L. Once the requirements of Section 4J have been met, the licensee must meet the requirements in Section 4A to obtain a compact privilege in a remote state.

SECTION 5. COMPACT PRIVILEGE TO PRACTICE TELEHEALTH

Member states shall recognize the right of an audiologist or speech-language pathologist, licensed by a home state in accordance with Section 3 and under rules promulgated by the Commission, to practice audiology or speech-language pathology in any member state via telehealth under a privilege to practice as provided in the Compact and rules promulgated by the Commission.

SECTION 6. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

Active duty military personnel, or their spouse, shall designate a home state where the individual has a current license in good standing. The individual may retain the home state designation during the period the service member is on active duty. Subsequent to designating a home state, the individual shall only change their home state through application for licensure in the new state.

SECTION 7. ADVERSE ACTIONS

- A. In addition to the other powers conferred by state law, a remote state shall have the authority, in accordance with existing state due process law, to:
1. Take adverse action against an audiologist's or speech-language pathologist's privilege to practice within that member state.
 2. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses as well as the production of evidence. Subpoenas issued by a licensing board in a member state for the attendance and testimony of witnesses or the production of evidence from another member state shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage and other fees required by the service statutes of the state in which the witnesses or evidence are located.
 3. Only the home state shall have the power to take adverse action against an audiologist's or speech-language pathologist's license issued by the home state.
- B. For purposes of taking adverse action, the home state shall give the same priority and effect to reported conduct received from a member state as it would if the conduct had occurred within the home state. In so doing, the home state shall apply its own state laws to determine appropriate action.
- C. The home state shall complete any pending investigations of an audiologist or speech-language pathologist who changes primary state of residence during the course of the investigations. The home state shall also have the authority to take appropriate action(s) and shall promptly report the conclusions of the investigations to the administrator of the data system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any adverse actions.
- D. If otherwise permitted by state law, recover from the affected audiologist or speech-language pathologist the costs of investigations and disposition of cases resulting from any adverse action taken against that audiologist or speech-language pathologist.
- E. Take adverse action based on the factual findings of the remote state, provided that the home state follows its own procedures for taking the adverse action.
- F. Joint Investigations
1. In addition to the authority granted to a member state by its respective audiology or speech-language pathology practice act or other applicable state law, any member state may participate with other member states in joint investigations of licensees.
 2. Member states shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the Compact.
- G. If adverse action is taken by the home state against an audiologist's or speech language pathologist's license, the audiologist's or speech-language pathologist's privilege to practice in all other member states shall be deactivated until all encumbrances have been removed from the state license. All home state disciplinary orders that impose adverse action against an audiologist's or speech language pathologist's license shall include a statement that the audiologist's or speech-language pathologist's privilege to practice is deactivated in all member states during the pendency of the order.
- H. If a member state takes adverse action, it shall promptly notify the administrator of the data system. The administrator of the data system shall promptly notify the home state of any adverse actions by remote states.
- I. Nothing in this Compact shall override a member state's decision that participation in an alternative program may be used in lieu of adverse action.

SECTION 8. ESTABLISHMENT OF THE AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY
COMPACT COMMISSION

- A. The Compact member states hereby create and establish a joint public agency known as the Audiology and Speech-Language Pathology Compact Commission:
1. The Commission is an instrumentality of the Compact states.
 2. Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.
 3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.
- B. Membership, Voting and Meetings
1. Each member state shall have two (2) delegates selected by that member state's licensing board. The delegates shall be current members of the licensing board. One shall be an audiologist and one shall be a speech-language pathologist.
 2. An additional five (5) delegates, who are either a public member or board administrator from a state licensing board, shall be chosen by the Executive Committee from a pool of nominees provided by the Commission at Large.
 3. Any delegate may be removed or suspended from office as provided by the law of the state from which the delegate is appointed.
 4. The member state board shall fill any vacancy occurring on the Commission, within 90 days.
 5. Each delegate shall be entitled to one (1) vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the Commission.
 6. A delegate shall vote in person or by other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication.
 7. The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.
- C. The Commission shall have the following powers and duties:
1. Establish the fiscal year of the Commission;
 2. Establish bylaws;
 3. Establish a Code of Ethics;
 4. Maintain its financial records in accordance with the bylaws;
 5. Meet and take actions as are consistent with the provisions of this Compact and the bylaws;
 6. Promulgate uniform rules to facilitate and coordinate implementation and administration of this Compact. The rules shall have the force and effect of law and shall be binding in all member states;
 7. Bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing of any state audiology or speech-language pathology licensing board to sue or be sued under applicable law shall not be affected;
 8. Purchase and maintain insurance and bonds;
 9. Borrow, accept, or contract for services of personnel, including, but not limited to, employees of a member state;
 10. Hire employees, elect or appoint officers, fix compensation, define duties, grant individuals appropriate authority to carry out the purposes of the Compact, and to establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;
 11. Accept any and all appropriate donations and grants of money, equipment, supplies, materials and services, and to receive, utilize and dispose of the same; provided that

at all times the Commission shall avoid any appearance of impropriety and/or conflict of interest;

12. Lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, real, personal or mixed; provided that at all times the Commission shall avoid any appearance of impropriety;
13. Sell convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;
14. Establish a budget and make expenditures;
15. Borrow money;
16. Appoint committees, including standing committees composed of members, and other interested persons as may be designated in this Compact and the bylaws;
17. Provide and receive information from, and cooperate with, law enforcement agencies;
18. Establish and elect an Executive Committee; and
19. Perform other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the state regulation of audiology and speech-language pathology licensure and practice.

D. The Executive Committee The Executive Committee shall have the power to act on behalf of the Commission according to the terms of this Compact:

1. The Executive Committee shall be composed of ten (10) members:
 - a. Seven (7) voting members who are elected by the Commission from the current membership of the Commission;
 - b. Two (2) ex-officios, consisting of one nonvoting member from a recognized national audiology professional association and one nonvoting member from a recognized national speech-language pathology association; and
 - c. One (1) ex-officio, nonvoting member from the recognized membership organization of the audiology and speech-language pathology licensing boards.

E. The ex-officio members shall be selected by their respective organizations.

1. The Commission may remove any member of the Executive Committee as provided in bylaws.
2. The Executive Committee shall meet at least annually.
3. The Executive Committee shall have the following duties and responsibilities:
 - a. Recommend to the entire Commission changes to the rules or bylaws, changes to this Compact legislation, fees paid by Compact member states such as annual dues, and any commission Compact fee charged to licensees for the compact privilege;
 - b. Ensure Compact administration services are appropriately provided, contractual or otherwise;
 - c. Prepare and recommend the budget;
 - d. Maintain financial records on behalf of the Commission;
 - e. Monitor Compact compliance of member states and provide compliance reports to the Commission;
 - f. Establish additional committees as necessary; and
 - g. Other duties as provided in rules or bylaws.
4. Meetings of the Commission All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in Section 10.
5. The Commission or the Executive Committee or other committees of the Commission may convene in a closed, non-public meeting if the Commission or Executive Committee or other committees of the Commission must discuss:

- a. Non-compliance of a member state with its obligations under the Compact;
- b. The employment, compensation, discipline or other matters, practices or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures;
- c. Current, threatened, or reasonably anticipated litigation;
- d. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;
- e. Accusing any person of a crime or formally censuring any person;
- f. Disclosure of trade secrets or commercial or financial information that is privileged or confidential;
- g. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
- h. Disclosure of investigative records compiled for law enforcement purposes;
- i. Disclosure of information related to any investigative reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the Compact; or
- j. Matters specifically exempted from disclosure by federal or member state statute.
6. If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision.
7. The Commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Commission or order of a court of competent jurisdiction.
8. Financing of the Commission
 - a. The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.
 - b. The Commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services.
 - c. The Commission may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the Commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Commission, which shall promulgate a rule binding upon all member states.
9. The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any of the member states, except by and with the authority of the member state.
10. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the Commission.

F. Qualified Immunity, Defense, and Indemnification

1. The members, officers, executive director, employees and representatives of the Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any person from suit and/or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.
2. The Commission shall defend any member, officer, executive director, employee or representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.
3. The Commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

SECTION 9. DATA SYSTEM

- A. The Commission shall provide for the development, maintenance, and utilization of a coordinated database and reporting system containing licensure, adverse action, and investigative information on all licensed individuals in member states.
- B. Notwithstanding any other provision of state law to the contrary, a member state shall submit a uniform data set to the data system on all individuals to whom this Compact is applicable as required by the rules of the Commission, including:
 1. Identifying information;
 2. Licensure data;
 3. Adverse actions against a license or compact privilege;
 4. Non-confidential information related to alternative program participation;
 5. Any denial of application for licensure, and the reason(s) for denial; and
 6. Other information that may facilitate the administration of this Compact, as determined by the rules of the Commission.
- C. Investigative information pertaining to a licensee in any member state shall only be available to other member states.
- D. The Commission shall promptly notify all member states of any adverse action taken against a licensee or an individual applying for a license. Adverse action information pertaining to a licensee in any member state shall be available to any other member state.
- E. Member states contributing information to the data system may designate information that may not be shared with the public without the express permission of the contributing state.

- F. Any information submitted to the data system that is subsequently required to be expunged by the laws of the member state contributing the information shall be removed from the data system.

SECTION 10. RULEMAKING

- A. The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in this Section and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.
- B. If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the Compact within 4 years of the date of adoption of the rule, the rule shall have no further force and effect in any member state.
- C. Rules or amendments to the rules shall be adopted at a regular or special meeting of the Commission.
- D. Prior to promulgation and adoption of a final rule or rules by the Commission, and at least thirty (30) days in advance of the meeting at which the rule shall be considered and voted upon, the Commission shall file a Notice of Proposed Rulemaking:
 1. On the website of the Commission or other publicly accessible platform; and
 2. On the website of each member state audiology or speech-language pathology licensing board or other publicly accessible platform or the publication in which each state would otherwise publish proposed rules.
- E. The Notice of Proposed Rulemaking shall include:
 1. The proposed time, date, and location of the meeting in which the rule shall be considered and voted upon;
 2. The text of the proposed rule or amendment and the reason for the proposed rule;
 3. A request for comments on the proposed rule from any interested person; and
 4. The manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing and any written comments.
- F. Prior to the adoption of a proposed rule, the Commission shall allow persons to submit written data, facts, opinions and arguments, which shall be made available to the public.
- G. The Commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:
 1. At least twenty-five (25) persons;
 2. A state or federal governmental subdivision or agency; or
 3. An association having at least twenty-five (25) members.
- H. If a hearing is held on the proposed rule or amendment, the Commission shall publish the place, time, and date of the scheduled public hearing. If the hearing is held via electronic means, the Commission shall publish the mechanism for access to the electronic hearing.
 1. All persons wishing to be heard at the hearing shall notify the executive director of the Commission or other designated member in writing of their desire to appear and testify at the hearing not less than five (5) business days before the scheduled date of the hearing.
 2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.
 3. All hearings shall be recorded. A copy of the recording shall be made available on request.
 4. Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the Commission at hearings required by this section.
- I. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the Commission shall consider all written and oral comments received.

- J. If no written notice of intent to attend the public hearing by interested parties is received, the Commission may proceed with promulgation of the proposed rule without a public hearing.
- K. The Commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.
- L. Upon determination that an emergency exists, the Commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in the Compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:
 - 1. Meet an imminent threat to public health, safety, or welfare;
 - 2. Prevent a loss of Commission or member state funds; or
 - 3. Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule.
- M. The Commission or an authorized committee of the Commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing and delivered to the chair of the Commission prior to the end of the notice period. If no challenge is made, the revision shall take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

SECTION 11. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

- A. Dispute Resolution
 - 1. Upon request by a member state, the Commission shall attempt to resolve disputes related to the Compact that arise among member states and between member and non-member states.
 - 2. The Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.
- B. Enforcement
 - 1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this Compact.
 - 2. By majority vote, the Commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices against a member state in default to enforce compliance with the provisions of the Compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of litigation, including reasonable attorney's fees.
 - 3. The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or state law.

SECTION 12. DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

- A. The Compact shall come into effect on the date on which the Compact statute is enacted into law in the 10th member state. The provisions, which become effective at that time, shall be

- limited to the powers granted to the Commission relating to assembly and the promulgation of rules. Thereafter, the Commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the Compact.
- B. Any state that joins the Compact subsequent to the Commission's initial adoption of the rules shall be subject to the rules as they exist on the date on which the Compact becomes law in that state. Any rule that has been previously adopted by the Commission shall have the full force and effect of law on the day the Compact becomes law in that state.
- C. Any member state may withdraw from this Compact by enacting a statute repealing the same.
1. A member state's withdrawal shall not take effect until six (6) months after enactment of the repealing statute.
 2. Withdrawal shall not affect the continuing requirement of the withdrawing state's audiology or speech-language pathology licensing board to comply with the investigative and adverse action reporting requirements of this act prior to the effective date of withdrawal.
- D. Nothing contained in this Compact shall be construed to invalidate or prevent any audiology or speech-language pathology licensure agreement or other cooperative arrangement between a member state and a non-member state that does not conflict with the provisions of this Compact.
- E. This Compact may be amended by the member states. No amendment to this Compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.

SECTION 13. CONSTRUCTION AND SEVERABILITY

This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Compact shall be severable and if any phrase, clause, sentence or provision of this Compact is declared to be contrary to the constitution of any member state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution of any member state, the Compact shall remain in full force and effect as to the remaining member states and in full force and effect as to the member state affected as to all severable matters.

SECTION 14. BINDING EFFECT OF COMPACT AND OTHER LAWS

- A. Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with the Compact.
- B. All laws in a member state in conflict with the Compact are superseded to the extent of the conflict.
- C. All lawful actions of the Commission, including all rules and bylaws promulgated by the Commission, are binding upon the member states.
- D. All agreements between the Commission and the member states are binding in accordance with their terms.
- E. In the event any provision of the Compact exceeds the constitutional limits imposed on the legislature of any member state, the provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

Section ##.

36-##-##. Use of general funds to support Audiology and Speech-Language Pathology Interstate Compact to prohibited.

No state general funds shall be used to support the Audiology and Speech-Language Pathology Compact.